

110TH CONGRESS  
2D SESSION

# S. 3329

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 24 (legislative day, JULY 23), 2008

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Compensation and Re-  
5       spect for Energy Workers Act of 2008” or the “CARE  
6       Act”.

1 **SEC. 2. EXPANSION OF CANCERS FOR WHICH INDIVIDUALS**  
 2 **ARE ELIGIBLE TO RECEIVE COMPENSATION**  
 3 **UNDER THE ENERGY EMPLOYEES COM-**  
 4 **PENSATION PROGRAM ACT OF 2000 AND THE**  
 5 **RADIATION EXPOSURE COMPENSATION ACT.**

6 Section 4(b)(2) of the Radiation Exposure Com-  
 7 pensation Act (42 U.S.C. 2210 note) is amended—

8 (1) by striking “(other than chronic  
 9 lymphocytic leukemia)” and inserting “(including  
 10 chronic lymphocytic leukemia)”;

11 (2) by inserting “posterior subcapsular cata-  
 12 racts, nonmalignant thyroid nodular disease, para-  
 13 thyroid adenoma, malignant tumors of the brain and  
 14 central nervous system, bronchio-alveolar carcinoma,  
 15 benign neoplasms of the brain and central nervous  
 16 system,” after “disease,”; and

17 (3) by striking “or lung” and inserting “lung,  
 18 skin, kidney, salivary gland, rectum, pharynx, or  
 19 prostate”.

20 **SEC. 3. DISTRIBUTION OF INFORMATION TO CLAIMANTS**  
 21 **AND POTENTIAL CLAIMANTS.**

22 (a) INDEPENDENT PHYSICIANS FOR PERFORMANCE  
 23 OF MEDICAL AND IMPAIRMENT SCREENINGS.—Paragraph  
 24 (2) of subsection (b) of section 3631 of the Energy Em-  
 25 ployees Occupational Illness Compensation Program Act  
 26 of 2000 (42 U.S.C. 7384v) is amended—

1 (1) in subparagraph (A), by striking “and” at  
2 the end;

3 (2) by redesignating subparagraph (B) as sub-  
4 paragraph (C); and

5 (3) by inserting after subparagraph (A) the fol-  
6 lowing:

7 “(B) lists of physicians qualified to per-  
8 form medical and impairment screenings on  
9 matters relating to the compensation program  
10 who are identified for purposes of this subpara-  
11 graph by one or more independent medical as-  
12 sociations, institutions of higher education, or  
13 both selected by the President for purposes of  
14 this subparagraph; and”.

15 (b) NOTICE OF AVAILABLE BENEFITS.—Such section  
16 is further amended by adding at the end the following:

17 “(d) NOTICE TO CLAIMANTS ON AVAILABLE BENE-  
18 FITS.—The President shall provide to an individual who  
19 files a claim for compensation under this subtitle or sub-  
20 title E written notice on the benefits for which the indi-  
21 vidual may be eligible under this Act.”.

22 **SEC. 4. ENHANCEMENT OF SITE PROFILES OF DEPART-**  
23 **MENT OF ENERGY FACILITIES.**

24 (a) INCLUSION OF TRADE NAMES OF CHEMICALS IN  
25 SITE PROFILES.—Subsection (c) of section 3633 of the

1 Energy Employees Occupational Illness Compensation  
 2 Program Act of 2000 (42 U.S.C. 7384w–1) is amended  
 3 by adding at the end the following new sentence: “In iden-  
 4 tifying any chemical commonly used in a building or proc-  
 5 ess of a facility, an exposure assessment shall include the  
 6 trade name (if any) of such chemical.”.

7 (b) PUBLIC ACCESS TO SITE PROFILES AND RE-  
 8 LATED INFORMATION.—Such section is further amended  
 9 by adding at the end the following:

10 “(e) PUBLIC ACCESS TO SITE PROFILES AND RE-  
 11 LATED INFORMATION.—The Secretary of Labor shall  
 12 make available to the public each site profile prepared  
 13 under subsection (a) and any other database used by the  
 14 Department to evaluate claims for compensation under  
 15 this Act.”.

16 **SEC. 5. PAYMENT OF COMPENSATION TO SURVIVORS AND**  
 17 **ESTATES OF CONTRACTOR EMPLOYEES.**

18 Section 3672 of the Energy Employees Occupational  
 19 Illness Compensation Program Act of 2000 (42 U.S.C.  
 20 7385s–1) is amended to read as follows:

21 **“SEC. 3672. COMPENSATION TO BE PROVIDED.**

22 “Subject to the other provisions of this subtitle:

23 “(1) CONTRACTOR EMPLOYEES.—

24 “(A) IN GENERAL.—A covered DOE con-  
 25 tractor employee shall receive contractor em-

1        employee compensation under this subtitle in ac-  
2        cordance with section 3673.

3            “(B) COMPENSATION AFTER DEATH OF  
4        CONTRACTOR EMPLOYEE.—Except as provided  
5        in paragraph (2)(B), if the death of a con-  
6        tractor employee occurs after the employee ap-  
7        plies for compensation under this subtitle but  
8        before such compensation is paid, the amount  
9        of compensation the employee would have re-  
10       received under this paragraph shall be paid to a  
11       survivor of the employee (for purposes of sec-  
12       tion 3674) or, if the employee has no survivors,  
13       the estate of the employee.

14       “(2) SURVIVORS.—

15            “(A) IN GENERAL.—Except as provided in  
16        subparagraph (B), a survivor of a covered DOE  
17        contractor employee shall receive contractor em-  
18        ployee compensation under this subtitle in ac-  
19        cordance with section 3674.

20            “(B) ELECTION OF CONTRACTOR EM-  
21        PLOYEE COMPENSATION OR SURVIVOR COM-  
22        PENSATION.—A survivor who is otherwise eligi-  
23        ble to receive compensation pursuant to both  
24        subparagraph (A) and paragraph (1)(B) shall  
25        not receive compensation pursuant to both sub-

1 paragraph (A) and paragraph (1)(B), but shall  
 2 receive compensation pursuant to subparagraph  
 3 (A) or paragraph (1)(B), as elected by the sur-  
 4 vivor.”.

5 **SEC. 6. EXPANSION OF AUTHORITY OF OMBUDSMAN OF EN-**  
 6 **ERGY EMPLOYEES OCCUPATIONAL ILLNESS**  
 7 **COMPENSATION PROGRAM.**

8 Section 3686 of the Energy Employees Occupational  
 9 Illness Compensation Program Act of 2000 (42 U.S.C.  
 10 7385s–15) is amended—

11 (1) by amending subsection (c) to read as fol-  
 12 lows:

13 “(c) DUTIES.—The duties of the Office shall be as  
 14 follows:

15 “(1) To assist individuals in making claims  
 16 under this subtitle and subtitle B.

17 “(2) To provide information on the benefits  
 18 available under this subtitle and subtitle B and on  
 19 the requirements and procedures applicable to the  
 20 provision of such benefits.

21 “(3) To act as an advocate on behalf of individ-  
 22 uals seeking benefits under this subtitle and subtitle  
 23 B.

24 “(4) To make recommendations to the Sec-  
 25 retary regarding the location of centers (to be known

1 as ‘resource centers’) for the acceptance and devel-  
 2 opment of claims for benefits under this subtitle and  
 3 subtitle B.

4 “(5) To carry out such other duties as the Sec-  
 5 retary shall specify.”;

6 (2) in subsection (d), by inserting “or subtitle  
 7 B” after “this subtitle”;

8 (3) in subsection (e), by inserting “and subtitle  
 9 B” after “this subtitle” each place it appears; and

10 (4) by striking subsection (g) and inserting the  
 11 following:

12 “(g) CONTRACT AUTHORITY.—The Ombudsman may  
 13 contract for the services of individuals with expertise in  
 14 such matters, including health physics, medicine, indus-  
 15 trial hygiene, and toxicology, as the Ombudsman considers  
 16 appropriate for the performance of the duties of the Of-  
 17 fice.”.

18 **SEC. 7. EXTENSION OF TIME FOR CLAIMANTS TO RESPOND**  
 19 **TO REQUESTS FOR INFORMATION.**

20 If the Secretary of Labor requests information from  
 21 an individual who has filed a claim for compensation under  
 22 the Energy Employees Occupational Illness Compensation  
 23 Program Act of 2000 with respect to that claim, the indi-  
 24 vidual shall have not less than 120 days to respond to  
 25 the request.

1 **SEC. 8. EXTENSION OF STATUTE OF LIMITATIONS FOR JU-**  
 2 **DICIAL REVIEW OF CONTRACTOR EMPLOYEE**  
 3 **CLAIMS.**

4 (a) IN GENERAL.—Section 3677(a) of the Energy  
 5 Employees Occupational Illness Compensation Program  
 6 Act of 2000 (42 U.S.C. 7385s–6(a)) is amended by strik-  
 7 ing “within 60 days” and inserting “not later than 1  
 8 year”.

9 (b) EFFECTIVE DATE.—The amendment made by  
 10 subsection (a) shall apply with respect to final decisions  
 11 of the Secretary of Labor under subtitle E of the Energy  
 12 Employees Occupational Illness Compensation Program  
 13 Act of 2000 (42 U.S.C. 7385s et seq.) issued on or after  
 14 the date of the enactment of this Act.

15 **SEC. 9. PAYMENT OF TRANSPORTATION EXPENSES AND**  
 16 **FOR PERSONAL CARE SERVICES.**

17 (a) IN GENERAL.—Not later than 90 days after the  
 18 date of enactment of this Act, the Secretary of Labor shall  
 19 prescribe regulations to provide for the direct payment to  
 20 providers of the costs to individuals described in sub-  
 21 section (b) of—

22 (1) personal care services (as that term is used  
 23 in section 30.403 of title 20, Code of Federal Regu-  
 24 lations (as in effect on the day before the date of the  
 25 enactment of this Act)) authorized pursuant to sec-  
 26 tion 3629 of the Energy Employees Occupational Ill-



1       ness Compensation Program Act of 2000 (42 U.S.C.  
2       7384t); and

3           (2) necessary and reasonable transportation ex-  
4       penses incident to securing medical services, appli-  
5       ances, or supplies pursuant to section 3629(c) of  
6       such Act.

7       (b) COVERED INDIVIDUALS.—An individual described  
8       in this subsection is an individual who receives medical  
9       benefits under section 3629(a) of the Energy Employees  
10      Occupational Illness Compensation Program Act of 2000  
11      (42 U.S.C. 7384t(a)).

12      **SEC. 10. ENHANCEMENT OF TRANSPARENCY IN CLAIMS**  
13                                      **PROCESS.**

14      (a) INFORMATION PROVIDED UPON DENIAL OF  
15      CLAIM; CORRESPONDENCE IN EASILY UNDERSTANDABLE  
16      LANGUAGE.—Not later than 90 days after the date of the  
17      enactment of this Act, the President shall prescribe regu-  
18      lations to ensure that—

19           (1) any notification to an individual making a  
20      claim under the Energy Employees Occupational Ill-  
21      ness Compensation Program Act of 2000 that the  
22      claim has been denied, and all other correspondence  
23      with such an individual with respect to a claim, are  
24      written in language that is clear, concise, and easily  
25      understandable; and

1           (2) any such notification is accompanied by an  
2           explanation of the reasons for denying the claim and  
3           a description of the information, if any, the indi-  
4           vidual could have submitted that might have resulted  
5           in approval of the claim.

6           (b) DOCUMENT RETENTION.—Not later than 90 days  
7           after the date of the enactment of this Act, the Secretary  
8           of Labor and the Secretary of Energy shall jointly pre-  
9           scribe regulations to ensure that the Department of Labor  
10          and the Department of Energy—

11           (1) retain all original documents in the posses-  
12          sion of such Departments related to a Department  
13          of Energy facility if—

14                   (A) employees of that facility might rea-  
15                   sonably be expected to file claims for compensa-  
16                   tion under the Energy Employees Occupational  
17                   Illness Compensation Program Act of 2000;  
18                   and

19                   (B) the documents might reasonably be ex-  
20                   pected to be used by such employees in making  
21                   such claims; and

22           (2) provide such employees access to such docu-  
23          ments.

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